

August 2005 Litigation Report

To: Mayor Spehar & County Commissioners
From: Bob Shillinger, Asst. County Attorney
Date: August 15, 2005
cc: Tom Willi, County Administrator
Richard Collins, County Attorney

Summary

New cases filed against County	1	Airports	2
Cases closed since last report	1	Community Services	3
CAY Trial level cases ⁱ	30	Engineering	2
CAY Post Judgment cases	4	Growth Management ⁱⁱⁱ	57
CAY Appeals	6	Miscellaneous ^{iv}	4
Potential cases to be filed	7	MCSO	7
Outside Counsel Cases ⁱⁱ	40	Public Works	5
Total Cases pending	68	Risk Management	3

CASES FILED AGAINST THE COUNTY SINCE LAST MONTH'S REPORT

FKCC & Last Stand v. FL Admin. Comm., Monroe County, et al **3D05-1800**
Third DCA **Judges: TBA** **Date Filed: 7/28/05**
Appeal of ALJ's decision denying rule challenge.

Current Status: Record being prepared. Will be coordinating with outside counsel Johnson, Anselmo on County's brief.

Next Activity: Appellant's brief due 10/6/05.

Time: 0.2 hours

Costs: 0.00

CASES CLOSED SINCE LAST MONTH'S REPORT

Monroe County v. Marshall Golnick **CCK-05-86**
Circuit Court 16th **Judge: Fowler** **Date Filed: 3/21/05**
Collection action authorized by BOCC on 6/16/04. Fine set at \$11,300.00.
Growth Management/Code Enforcement

Current Status: Final payment made 7/31/05. Notice of voluntary dismissal filed 8/4/05. Satisfaction/Release of Lien filed 8/9/05.

Next Activity: Closed.

Time: 11.3 hours

Costs: \$575.00

LITIGATION – Trial Level
See Outside Counsel Section for Cases being Handled Jointly

Clay, Robert Lee, John & Li Chiung Moyant v. Monroe County **CAM-04-05**
Circuit Court 16th **Judge: Jones** **Date Filed: 01/05/04**

Mandamus Petition/takings case regarding Big Pine properties. Mayor served 1/8/04. **Growth Management/Planning.**

Current Status: Court approved settlement agreement.

Next Activity: Awaiting dismissal by Petitioners.

Time: 7.5 hours **Costs:** 0.00

Collins, C. & Sum Air Services v. Monroe County, et al **CAM-05-146**
Circuit Court 16th **Judge: Payne** **Date Filed: 6/1/05**

Declaratory judgment action regarding lease with FBO at Marathon Airport. **Airports.** Filed but not served.

Current Status: Awaiting service of complaint.

Next Activity: Once served, determine if outside counsel should be retained.

Time: 0.2 hours **Costs:** 0.00

Cutaia, Thomas v. Monroe County, MCSO, Pretrial Services **CAK-05-617**
Circuit Court 16th **Judge: Jones** **Date Filed: 6/21/05**

Complaint for unspecified damages. Mayor not served yet. **MCSO**

Current Status: Awaiting service.

Next Activity: Once served, determine if outside counsel should be retained.

Time: 0.2 hours **Costs:** 0.00

Drewing, Janice v. James Roberts as County Administrator **CAK-04-686**
Circuit Court 16th **Judge: Jones** **Date Filed: 6/25/04**

Mandamus action seeking hearing in personnel dispute between plaintiff and her supervisor Louis Latorre. **Community Services/Social Services**

Current Status: Drewing appealed Circuit's denial of writ to Third DCA.

Next Activity: Stayed pending appeal.

Time: 19.5 hours **Costs:** 0.00

Fed. Nat'l Mortg. Assn. v. M. Coleman, Monroe County, et al **CAK-05-171**
Circuit Court 16th **Judge: Jones** **Date Filed: 2/18/05**

Mortgage foreclosure case where County holds an inferior interest to bank due to \$1,928.00 in **Article V liens**.

Current Status: Defendant's motion objecting to foreclosure sale, motion to rescind certificate of sale, and motion to vacate final order scheduled for 7/20/05 continued due to lack of time to hear matter.

Next Activity: 10/19/05, hearing on objection to foreclosure sale, motion to rescind certificate of sale and motion to vacate final summary judgment.

Time: 2.8 hours **Costs:** 0.00

Monroe County v. R. Bernstein/Safe Harbor Marine Railway **CAK-05-732**
Circuit Court 16th **Judge: Miller** **Date Filed: 7/26/05**

Code enforcement foreclosure action that was authorized by the BOCC 6/18/03. As of 7/25/05, lien totaled \$221,800.00.

Growth Management/Code Enforcement

Current Status: Suit filed.

Next Activity: Serve Defendant.

Time: 5.0 hours **Costs:** \$576.00

Monroe County v. Dirk W. Damrau **CAK-05-667**
Circuit Court 16th **Judge: Miller** **Date Filed: 7/11/05**

Action to collect \$206,100.00 fine authorized by the BOCC 6/18/03.

Growth Management/Code Enforcement

Current Status: Complaint filed.

Next Activity: Serve Defendant.

Time: 3.4 hours **Costs:** \$555.00

Monroe County v. Florida Detroit Diesel **SCK-05-60**
County Court (Sm. Claims) Judge: Fowler **Date Filed: 3/14/05**
Action seeking reimbursement for \$4,905.00 in clean up costs associated with
improperly installed machinery. **PJM**
Public Works/Fleet Management/Risk Management

Current Status: Settlement reached.

Next Activity: Finalize settlement agreement.

Time: 6.5 hours **Costs:** \$275.00

Monroe County v. Mark Fraleigh **CAP-03-647**
Circuit Court 16th Judge: Garcia **Date Filed: 12/8/03**
Ejectment action against owner of structures located on County right-of-way.
Public Works/Roads and Bridges.

Current Status: Tentative settlement reached.

Next Activity: BOCC to consider settlement agreement 8/17/05;
Pretrial Conference 8/19/05.

Time: 30.5 hours **Costs:** \$238.40

Monroe County v. Jack Hagopian **CAP-03-529**
Circuit Court 16th Judge: Garcia **Date Filed: 10/1/03**
Code enforcement collection action authorized by BOCC on 8/20/03. Fine was
\$203,100.00 as of 9/30/03 and accruing at \$250.00 per day.
Growth Management/Code Enforcement

Current Status: Discovery.

Next Activity: Deposition to be set.

Time: 14.9 hours **Costs:** \$20.00

Monroe County v. Dorothy Hough, et al **CAP-05-160**
Circuit Court 16th **Judge: Garcia** **Date Filed: 4/6/05**
Code enforcement collection action authorized by BOCC on 9/17/03. As of 9/25/03 lien valued at \$25,050.00 and accruing at \$50.00 per day.
Growth Management/Code Enforcement

Current Status: Two DFs served answer on 6/1/05; Discovery pending.

Next Activity: Settlement offer to be presented at September BOCC meeting.

Time: 7.9 hours **Costs:** \$620.00

Monroe County v. James Jeanquenat **CAP-05 317**
Circuit Court 16th **Judge: Garcia** **Date Filed: 7/18/05**
Collection action authorized by BOCC on 4/21/04. Fine exceeds 136,100.00.
Growth Management/Code Enforcement

Current Status: Defendant served 8/4/05.

Next Activity: Defendant's answer due 8/25/05.

Time: 1.5 hours **Costs:** \$275.00

Monroe County v. Key Largo Ocean Resorts Coop, Inc. **CAP-96-260**
Circuit Court 16th **Judge: Garcia** **Date Filed: 5/20/96**
Action to foreclose a code enforcement lien.
Growth Management/Code Enforcement

Current Status: Development agreement application being reviewed.

Next Activity: Status report due with the Court 10/1/05.

Time: 36.6 hours **Costs:** \$340.00

Monroe County v. Pedro Liz **CAK-05-420**
Circuit Court 16th **Judge: Jones** **Date Filed: 4/22/05**
Collection action authorized by BOCC on 7/17/03; fines exceed \$816,300.00.
Growth Management/Code Enforcement

Current Status: Default issued 7/14/05.

Next Activity: Move for final judgment.

Time: 7.6 hours **Costs:** \$555.00

Monroe County v. Arthur Mehr **CAP-05-348**
Circuit Court 16th **Judge: Garcia** **Date Filed: 8/5/05**
Code fine collection action. Fine exceeds \$42,000.00.
Growth Management/Code Enforcement

Current Status: Complaint filed.

Next Activity: Serve defendant.

Time: 3.2 hours **Costs:** \$405.00

Nunziante, Marilyn v. Monroe County **CAK-04-1227**
Circuit Court 16th **Judge: Jones** **Date Filed: 11/18/04**
Suit over admission practices at Bayshore Manor seeking to invalidate practice of requiring family members to subsidize those who can't afford the full rate.
Community Services/Social Services

Current Status: Discovery ongoing.

Next Activity: Documents due on 8/18/05.

Time: 60.8 hours **Costs:** 0.00

Teal, Kimberly & Keith v. Michael Angel, Monroe County, et al **CAM-04-404**
Circuit Court 16th **Judge: Payne** **Date Filed: 12/16/04**
Declaratory judgment action by property owners seeking half of a road **PJM**
purportedly abandoned by County and then quitclaimed to City of Marathon.
Public Works/Roads and Bridges

Current Status: Discovery. Settlement negotiations ongoing.

Next Activity: County's motion to dismiss TBA pending negotiations.

Time: 9.4 hours **Costs:** \$133.00

Tuttle, David, Peter Rosasco & Harley Evans v. Monroe County **CAM-04-243**
Circuit Court 16th **Judge: Payne** **Date Filed: 6/30/04**
Action for damages and to compel County to issue building permits.
Growth Management/Planning

Current Status: Settled; 3 of 4 releases issued.

Next Activity: Dismissal if DCA doesn't object to permits.

Time: 3.1 hours **Costs:** 0.00

Walgreens & Gadinsky v. Monroe County **CAK-05-266**

Circuit Court 16th **Judge: Taylor** **Date Filed: 3/11/05**

Petition for certiorari review of DOAH administrative order upholding 1 of 6 findings supporting denial of major conditional use application for redevelopment of Big Pine Scotty's into Walgreens.

Growth Management/Planning

Current Status: Motion to Quash granted.

Next Activity: None while awaiting Court's preliminary review of petition.

Time: 10.2 hours **Costs:** 0.00

Wells Fargo v. Ricky & Barbara Allen & Monroe County **CAM-05-177**

Circuit Court 16th **Judge: Payne** **Date Filed: 7/1/05**

Mortgage foreclosure action, County has a \$36,000.00 SHIP loan that is junior to the first mortgage. Mayor served 7/14/05.

Housing Authority

Current Status: Reviewing complaint & cross claim options.

Next Activity: 8/30/05 file responsive pleading, review cross claim options.

Time: 3.3 hours **Costs:** 0.00

In re: Winn Dixie Stores, Inc. **05-03817-3F1**

U.S. Bankruptcy Ct., M.D.Fla. **Judge: Jerry Funk** **Date Filed: 2/25/05**

Voluntary Chapter 11 reorganization case where County *might* have a claim against the estate.

Current Status: Could find no basis for filing proof of claim.

Next Activity: None needed.

Time: 0.9 hours **Costs:** 0.00

POST JUDGMENT CASES

Monroe County v. William L. Davis **CAP-04-181**
Circuit Court 16th **Judge: Garcia** **Date Filed: 4/15/04**
Action to collect \$27,600.00 code enforcement fine from former owner of property who fraudulently sold property to innocent owner. DF in Federal prison.
Growth Management/Code Enforcement

Current Status: Final judgment of \$28,431.00 recorded w/ Dept. of State.

Next Activity: Collection.

Time: 6.2 hours **Costs:** \$56.00

Monroe County v. Dan Gleason **SCP-03-165**
County Court (Sm. Claims) **Judge: Ptomey** **Date Filed: 8/5/03**
Small claims action for a money judgment to collect **\$520.00** in unpaid code enforcement fines and costs authorized by the BOCC in April of 2003.
Growth Management/Code Enforcement

Current Status: Final judgment recorded w/ Dept. of State.

Next Activity: Collection.

Time: 9.5 hours **Costs:** \$65.92

Monroe County v. Lily Marks **CAK-03-1152**
Circuit Court 16th **Judge: Jones** **Date Filed: 10/2/03**
Collection action of 2 code enforcement liens. Final Judgment \$795,270.00.
Growth Management/Code Enforcement

Current Status: Final judgment entered for \$795,270.00 on 5/9/05.

Next Activity: Collection.

Time: 8.3 hours **Costs:** \$55.00

APPEALS

Decker, Harry v. Monroe County **CAK-01-1252**

Circuit Court 16th **Judge: Payne** **Date Filed: 10/5/01**

This is an appeal of a code enforcement OSTDS case.

Growth Management/Code Enforcement

Current Status: Decision affirmed by Third DCA on 5/17/05.

Next Activity: Hearing on Motion to issue mandate 8/15/05.

Time: 19.8 hours **Costs:** 0.00

Drewing, Janice v. Monroe County **3D 04-3044**

Third DCA **Judge: TBA** **Date Filed: 11/29/04**

Appeal of denial of writ of mandamus in personnel matter.

Community Services/Social Services

Current Status: Awaiting decision by Court.

Next Activity: Awaiting decision by Court.

Time: 31.4 hours **Costs:** \$15.00

Eads, Barbara v. Monroe County **CAP-03-117**

Circuit Court 16th **Judge: Garcia** **Date Filed: 2/27/03**

Appeal of order finding the Lowe House to be in unsafe condition.

Growth Management/Code Enforcement

Current Status: Appeal stayed pending application for variance and building permit.

Next Activity: Pretrial conference scheduled for 8/19/05.

Time: 3.3 hours **Costs:** 0.00

Fuchs, Walburga v. Monroe County **CAK-01-1251**

Circuit Court 16th **Judge: Miller** **Date Filed: 10/5/01**

This is a code enforcement appeal of an OSTDS case.

Growth Management/Code Enforcement

Current Status: The County's brief filed.

Next Activity: Await Court's decision.

Time: 11.5 hours **Costs:** 0.00

Monroe County v. Lanes, George & Denise **CAM-04-310**
Circuit Court 16th **Judge: Jones** **Date Filed: 9/15/04**
Appeal of decision regarding elevation requirements for replacement structure.
Growth Management/Code Enforcement **PJM**

Current Status: County prevailed on appeal.

Next Activity: When opinion final, remand to Special Magistrate.

Time: 10.1 hours **Costs:** 0.00

Thomas, David R. v. Monroe County **CAK-05-499**
Circuit Court 16th **Judge: Garcia** **Date Filed: 5/16/05**
Appeal of Contractor's Examining Board decision.
Growth Management/Building/Contractor's Examining Board

Current Status: Awaiting service of initial brief.

Next Activity: Motion to dismiss to be heard 9/30/05.

Time: 1.1 hours **Costs:** 0.00

POTENTIAL CASES THAT HAVE NOT BEEN FILED YET

Good, Lloyd v. Monroe County **CAK-05-TBA**
Circuit Court (16th) **Judge:** **Date Filed:**
Bert J. Harris Act claim regarding two parcels of property owned by Lloyd Good.
Growth Management/Planning

Current Status: Settlement discussions underway.

Next Activity: None. Stayed during Good's application for major conditional use.

Time: 8.6 hours **Costs:** \$5.56

Harum, James v. Monroe County, DOH, & Z. Krstic **CAP-05-TBA**
Circuit Court 16th **Judge:** **Date Filed:**
Threatened action for injunctive relief to compel County to prosecute code enforcement violation against Zivadin Krstic by his neighbor James Harum.
Growth Management/Code Enforcement

Current Status: Underlying code case held 5/26/05, mitigation plan in effect.

Next Activity: Move to dismiss and for sanctions if filed since w/o merit.

Time: 2.4 hours **Costs:** 0.00

Monroe County v. Matthew Bonnett **CAK-05-TBA**
Circuit Court 16th **Judge: TBA** **Date Filed:**
Code enforcement lien collection action authorized 10/17/04. **PJM**
As of 5/1/5, \$150.00/day fine exceeded \$78,000.00.
Growth Management/Code Enforcement

Current Status: Demand letter served to Defendant.

Next Activity: Prepare Summons, Complaint, & Lis Pendens.

Time: .5 hours **Costs:** 0.00

Monroe County v. Jean M. Louis & Itnor Corp. **CAK-05-TBA**
Circuit Court 16th **Judge: TBA** **Date Filed:**
Code fine collection action authorized by BOCC on 10/17/04. \$34,200.00.
Growth Management/Code Enforcement **PJM**

Current Status: Owners not complying with settlement agreement approved by BOCC on 4/20/05.

Next Activity: File foreclosure action if not resolved.

Time: 1.5 hours **Costs:** 0.00

Monroe County v. Blair & Althea Mooney **CAK-05-TBA**
Circuit Court 16th **Judge: TBA** **Date Filed:**
Code lien collection action authorized by BOCC on 10/17/04. \$146,100.00.
Growth Management/Code Enforcement **PJM**

Current Status: 7/20/05, BOCC agreed to settle for 5% of fine \$7,305.00.

Next Activity: Finalize settlement agreement & payment.

Time: .5 hours **Costs:** 0.00

Monroe County v. Outland Properties **CAP-05-TBA**
Circuit Court 16th **Judge: Garcia** **Date Filed:**
Collection action authorized by BOCC on 10/17/04. Fine over \$225,000.00.
Growth Management/Code Enforcement **PJM**

Current Status: Demand letter served to Defendant.

Next Activity: Prepare Summons, Complaint, & Lis Pendens.

Time: .5 hours **Costs:** 0.00

State of Florida v. Monroe County **TBA**
TBA **Judge: TBA** **Date Filed: n/a**
Threatened action by AG's Medicaid Fraud unit regarding alleged over billings for ambulance services for advanced life support services vis a vis basic life support services.
Public Safety/Fire Rescue

Current Status: After not hearing from state for over a year, AG is proposing negotiated agreement on how to bill future services in exchange for a dismissal of all prior disputed billings.

Next Activity: Settlement conference with State.

Time: 9.2 hours **Costs:** 0.00

CASES BEING LITIGATED BY OUTSIDE COUNSEL
(other than Morgan & Hendrick)

Ferencik, Libanoff, Brandt, Bustamante and Williams, P.A.

Monroe County v. Bender & Associates, et al **CAK-03-915**
Circuit Court 16th **Judge: Jones** **Date Filed: 8/4/03**
Breach of contract and negligent misrepresentation action arising from the defective windows in the Gato building.
Engineering/Construction Management

Current Status: Subs & Materialmen's Motions to dismiss denied 7/21/05.

Next Activity: Discovery ongoing.

Fees billed to date: \$55,121.00 **Costs:** \$6,246.83

Monroe County v. Lodge Construction, et al **CAK-00-617**
Circuit Court 16th **Judge: Payne** **Date Filed: 5/11/00**
Suit filed against general contractor Lodge Construction & its surety for breach of contract to build Gato Building.
Engineering/Construction Management

Current Status: Reserved on appeal November 24, 2004. New trial granted. Mandate issued 2/16/05.

Next Activity: Set for trial.

Fees billed to date: \$298,015.25 **Costs:** \$71,523.31

Bob Freilich & Tyson Smith

Collins, Thomas, et al v. Monroe County **CAM-04-379**

Circuit Court 16th **Judge: Payne** **Date Filed: 11/22/04**

Takings action brought by 11 groups of plaintiffs.

Growth Management/Planning

Current Status: Discovery ongoing.

Next Activity: Motion for summary judgment 8/30/05.

Fees billed to date: \$280,057.42

CAY Time: 84.6 hours

Costs: 0.00

Johnson, Anselmo Murdoch Burke & George

Bauknight, Skaggs & Rockett v. Monroe County **CAP-04-451**

Circuit Court 16th **Judge: Garcia** **Date Filed: 9/24/04**

Inverse condemnation/takings case filed by Jimmy & Nancy Bauknight, Teague Skaggs, & Kathleen Rockett for three lots on Big Pine Key. Mayor served 10/4/4.

Growth Management/Planning

Current Status: Discovery.

Next Activity: Discovery.

Fees billed to date: \$832.24

Costs: 0.00

Bauknight, Skaggs & Rockett v. Monroe County **04-CV-10105**

U.S. D.C. S.Fla. **Judge: Moore** **Date Filed: 11/1/04**

Inverse condemnation/takings case filed by Jimmy & Nancy Bauknight, Teague Skaggs, & Kathleen Rockett for three lots on Big Pine Key. Mayor served 10/4/4.

Growth Management/Planning

Current Status: Federal Court remanded to State Court. Attorney's fee motion appealed to 11th Circuit.

Next Activity: None.

Fees billed to date: None

Costs: 0.00

Bauknight, et al. v. Monroe County **05-10868-F**
11th Cir. Ct. of Appeals **Judge: TBA** **Date Filed: 2/11/05**

Appeal of denial of attorney's fees motion filed against the County by takings case plaintiffs. County had removed the case to Federal Court; plaintiffs sought remand and attorneys fees. Case was remanded to state court but fees denied. Plaintiffs are seeking between \$15,000 and \$18,000 in fees.

Growth Management/Planning

Current Status: Briefs completed.

Next Activity: Oral Argument granted week of 12/5/05, date TBA.

Fees billed to date: None. **Costs:** 0.00

Florida Keys Citizens Coalition v. State & Monroe County **DOAH 04-2756**
DOAH **Judge: Carolyn Holifield** **Date Filed: 08/05/04**

Administrative Rule challenge to agreement with State to fund purchases of environmentally sensitive lands, provide permits for workforce housing, etc; CAY serving as co-counsel.

Growth Management/Planning

Current Status: Final Order in County's favor issued 6/29/05.

Next Activity: Final approval of rule by Administration Commission.

Fees billed to date: \$59,464.92 **Costs:** 0.00
CAY Time: 190.1 hours

Hardee, Evelyn v. Monroe County **CAP-05-255**
Circuit Court 16th **Judge: Garcia** **Date Filed: 6/3/05**

Negligence action arising from alleged fall resulting in personal injury at PK Court house. Mayor served 6/10/05. See *also* Johnson, Anselmo cases.

Risk Management/Public Works

Current Status: Answer filed 6/24/05.

Next Activity: Discovery.

Fees billed to date: \$660.20 **Costs:** 0.00
CAY Time: 1.9 hours

Neuman, Kenneth v. Monroe County **CAK-04-663**
Circuit Court 16th **Judge: Jones** **Date Filed: 6/21/04**
Action for damages and to compel County to issue building permits.
Growth Management/Planning CAY co-counsel.

Current Status: Discovery.

Next Activity: Discovery.

Fees billed to date: \$2,326.92 **Costs:** 0.00
CAY Time: 5.8 hours

Riverview Consultants, Inc. v. Monroe County **CAK-05-373**
Circuit Court 16th **Judge: Jones** **Date Filed: 4/13/05**
Tortious interference with contract case. League of City's carrier counsel.
Risk Management/Airport/MCSO **PJM**

Current Status: Plaintiff served Summons and Complaint on 8/5/05.

Next Activity: File responsive pleading 8/26/05.

Fees billed to date: \$743.86 **Costs:** 0.00
CAY Time: 4.0 hours

Purdy, Jolly & Giuffreda, P.A.

Evans, Brian v. Monroe County **04-CIV-10033-JLK**
U.S. Dist., S.D. Fla. (Miami) Judge: King **Date Filed: 5/6/04**
Civil action against the County, and others, arising from actions of Sheriff's office
in publicizing the rescission of a warrant it had obtained for his arrest. **MCSO**

Current Status: Court awarded County & Sheriff \$4,579.00 in attorney's fees
against Evans for filing frivolous suit & denied Evan's motion to stay enforcement
of judgment pending appeal.

Next Activity: Collection.

Fees billed to date: None **Costs:** 0.00
CAY Time: 9.5 hours

Evans, Brian v. Monroe County, et al **CIV S 04-1042 LRH**
U.S.D.C. Nevada **Judge: Jones** **Date Filed: 7/28/04**
Same allegations as prior case which were brought in Nevada. **MCSO**

Current Status: Evans has appealed dismissal by Court.

Next Activity: None while case is on appeal.

Fees billed to date: None **Costs:** 0.00

Evans, Brian v. KW Citizen, Monroe County, et al **CV S 04-1742-KJD-LRL**
U.S.D.C. Nevada **Judge: Dawson** **Date Filed: 1/6/05**
Defamation suit over alleged misstatements by Mark Willis in the Citizen. **MCSO**

Current Status: Evans dismissed case on 2/11/05; states he will refile.

Next Activity: Await service.

Fees billed to date: None **Costs:** 0.00

Evans, Brian v. MCSO, Monroe County, et al **04-17429**
9th Circuit Court of Appeals **Judges: TBA** **Date Filed: 12/09/04**
Appeal of Nevada Court's dismissal of suit in CIV S 04-1042 LRH. **MCSO**

Current Status: Briefs completed.

Next Activity: Await decision by Court.

Fees billed to date: None **Costs:** 0.00

Evans, Brian v. MCSO, Monroe County, et al **05-10077-B**
11th Circuit Court of Appeals **Judge: TBA** **Date Filed: 1/5/05**
Appeal of award of attorney's fees against Evans for filing a frivolous lawsuit.
MCSO

Current Status: Briefs completed.

Next Activity: Await decision by Court.

Fees billed to date: None **Costs:** 0.00

The Smith Law Firm

Monroe County v. Post Buckley, Schuh, and Jernigan CAK-95-402

Circuit Court 16th Judge: Payne Date Filed: 3/30/95

Malpractice claim against the County's former engineering firm for miscalculation of bonds necessary to finance improvements to Card Sound Road.

Public Works/Roads and Bridges

Current Status: Defense verdict 6/14/05. Appealed.

Next Activity: Finalize attorney's fees.

Fees billed to date: \$630,311.78 **Costs:** 0.00

Vernis & Bowling of the Florida Keys, P.A.

GAP Properties of SW Florida-I, Inc. v. Monroe County CAK-04-1321

Circuit Court 16th Judge: Payne Date Filed: 12/10/04

Certiorari review of administrative action involving dock failure to obtain plat approval due to subdividing and an improper change of use without a major or minor conditional use permit.

Growth Management/Planning

Current Status: 7/12/05, Court affirmed Planning Comm.'s decision, denied petition.

Next Activity: Resolve County's motions for attorney's fees & to strike.

Fees billed to date: \$26,875.00 **Costs:** \$306.43

Key Tex S. D. Condo Assoc. v. Monroe County & T. McGarry CAK-04-224

Circuit Court 16th Judge: Jones Date Filed: 3/2/04

Action to prevent County from denying permits because of ownership conversion to condominiums and compel County to accept permit applications that have been rejected MCC 9.5-49.

Growth Management/Planning

Current Status: Dismissed by agreement w/ leave to refile.

Next Activity: Petitioners have until 8/25/5 to refile.

Fees billed to date: \$32,290.50 **Costs:** \$2,540.84

Monroe County v. Mary Boza **CAK-03-1508**

Circuit Court 16th **Judge: Jones** **Date Filed: 12/18/03**

Code enforcement foreclosure action authorized by the BOCC on 4/18/03.

Growth Management/Code Enforcement

Current Status: Board agreed to settle for \$7,300.00 on 6/15/05.

Next Activity: Finalize terms of settlement.

Fees billed to date: \$7,300.00 **Costs:** 0.00

CAY Time: 4.7 hours

Monroe County v. Alain Y. Depierrefeu **CAK-03-1504**

Circuit Court 16th **Judge: Jones** **Date Filed: 12/18/03**

Code enforcement foreclosure action authorized by the BOCC on 4/18/03.

Growth Management/Code Enforcement

Current Status: Final default judgment entered on 6/21/05 for \$144,505.03.

Next Activity: Auction to be scheduled.

Fees billed to date: None **Costs:** 0.00

Monroe County v. Alain Y. Depierrefeu **CAK-03-1507**

Circuit Court 16th **Judge: Jones** **Date Filed: 12/18/03**

Code enforcement foreclosure action authorized by the BOCC on 4/18/03.

Growth Management/Code Enforcement

Current Status: Final default judgment entered on 6/21/05 for \$616,555.03.

Next Activity: Auction to be scheduled.

Fees billed to date: None **Costs:** 0.00

CAY Time: 3.1 hours

Monroe County v. Mary Ellen Lloyd **CAM-03-362**

Circuit Court 16th **Judge: Jones** **Date Filed: 12/19/03**

Code enforcement foreclosure action authorized by the BOCC 4/18/03.

The total amount of the lien owed to the County is \$143,500.00.

Growth Management/Code Enforcement

Current Status: Compliance achieved 8/31/04.

Next Activity: Settlement offer to be presented at September BOCC meeting.

Fees billed to date: None

Costs: 0.00

CAY Time: 2.0 hours

Monroe County v. James Messera, et al **CAK-03-1509**

Circuit Court 16th **Judge: Payne** **Date Filed: 12/18/03**

Code enforcement foreclosure action authorized by the BOCC 4/18/03.

Growth Management/Code Enforcement

Current Status: Owners working on compliance.

Next Activity: Settlement discussions ongoing.

Fees billed to date: None

Costs: 0.00

Monroe County v. Joe Posada, III **CAK-03-1503**

Circuit Court 16th **Judge: Payne** **Date Filed: 12/18/03**

Code enforcement foreclosure action authorized by the BOCC 4/18/03.

Growth Management/Code Enforcement

Current Status: Settlement unproductive.

Next Activity: Proceed with foreclosure.

Fees billed to date: None

Costs: 0.00

Monroe County v. Virginia Sawyer & Tony Welters **CAK-03-1505**

Circuit Court 16th **Judge: Payne** **Date Filed: 12/18/03**

Code enforcement foreclosure action that was authorized by the BOCC 7/15/03.

Growth Management/Code Enforcement

Current Status: DFs answered.

Next Activity: Discovery.

Fees billed to date: None

Costs: 0.00

Monroe County v. Virginia Sawyer **CAK-03-1506**

Circuit Court 16th **Judge: Payne** **Date Filed: 12/18/03**

Code enforcement foreclosure action that was authorized by the BOCC 7/15/03.

Growth Management/Code Enforcement

Current Status: DF answered 7/29/05.

Next Activity: Discovery.

Fees billed to date: None

Costs: 0.00

Monroe County v. Louis Welters **CAK-04-639**

Circuit Court 16th **Judge: Jones** **Date Filed: 6/14/04**

Code enforcement foreclosure action that was authorized by the BOCC 7/15/03.

Growth Management/Code Enforcement

Current Status: DF Answered.

Next Activity: Discovery.

Fees billed to date:None

Costs: 0.00

Osborn, Jeff v. Monroe County **CAP-04-564**

Circuit Court 16th **Judge: Garcia** **Date Filed: 11/24/04**

1 of 2 certiorari petitions challenging development approval of Northstar project.

Growth Management/Planning

Current Status: Pleadings complete.

Next Activity: Oral argument set for 9/12/05 @ 8:45 a.m.

Fees billed to date: \$14,039.50

Costs: \$261.49

Osborn, Jeff v. Monroe County **CAP-04-565**

Circuit Court 16th **Judge: Garcia** **Date Filed: 11/24/04**

2 of 2 certiorari petitions challenging development approval of Northstar project.

Growth Management/Planning

Current Status: Briefs complete.

Next Activity: Oral argument to be scheduled.

Fees billed to date: \$3,920.50

Costs: \$146.93

ⁱ Includes cases listed under outside counsel if County Attorney's office has entered appearance as co-counsel.

ⁱⁱ Includes cases listed under Growth Management Litigation Report.

ⁱⁱⁱ Includes cases listed under Growth Management Litigation Report.

^{iv} Article V issue, bankruptcy claim, Housing Authority, and Fire Rescue.